THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.19072 OF 1998

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Dated: 10th August, 2005.

Between :

B.Rama Rao

… Petitioner

and

1. The Labour Court-III, Hyderabad and another

… Respondents

ORDER:

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This writ petition is filed by the petitioner-Workman being aggrieved by the award passed by the Labour Court-III, Hyderabad, in I.D.No.823 of 1993, dated 20-02-1998, insofar as denying the back wages and attendant benefits.

2. It is the case of the petitioner-Workman that he was appointed as a Welder/Technician into the services of the second respondent- Management in the year 1989. While so, due to illhealth, the petitioner-Workman absented from duty from 25-05-1993 till 29-09-1993. According to the petitioner-Workman, though he submitted medical certificates for the said period of absence, without considering the same, termination order was passed by the second respondent-Management on 29-09-1993 holding that the petitioner-Workman is absent from duty, without conducting any enquiry and without asking for explanation of the petitioner-Workman. Therefore, he raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short, 'the Act') before Labour Court-III, Hyderabad, and the Labour Court had taken up the matter as I.D.No.823 of 1993. The Labour Court, though found that

the order of termination was without conducting any enquiry and further holding that the same is not justified, granted relief of reinstatement of the petitioner-Workman with continuity of service, but without any back wages. According to the petitioner-Workman, the Labour Court, having held that termination of the petitioner-Workman from service is illegal, ought not to have denied the back wages and other attendant benefits.

3. There is no necessity of going into all the details. Admittedly, no enquiry was conducted by the second respondent-Management when the services of the petitioner-Workman were terminated with effect from
29-09-1993. The Labour Court, therefore, has rightly held that termination of the petitioner-Workman from the service of the second respondent-Management on 29-09-1993 is arbitrary and illegal. However, the Labour Court, while granting relief and while exercising its powers under Section 11A of the Act, has taken into consideration the material on record supporting that the petitioner-Workman had taken treatment at Amalapuram and as such, since the medical certificate produced by the petitioner-Workman was not doubted, it must be treated as a genuine one. Therefore, the punishment of removal was not justified and not in proportionate and in the over all circumstances of the case, directed reinstatement of the petitioner-Workman into service with continuity of service, but without any back wages and attendant benefits.

4. The Labour Court has not committed any error since it has not kept open for the second respondent-Management to conduct any detailed enquiry into the said misconduct. Instead of conducting a detailed enquiry etc., the Labour Court seems to have felt that denial of back wages and other attendant benefits is just and proper. I am of the opinion that the award passed by the Labour Court does not warrant interference of this Court under Article 226 of the Constitution of India.

5. The writ petition is devoid of merits and is liable to be dismissed, accordingly dismissed. No order as to costs.

C.V. RAMULU, J

10th August, 2005.

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